

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF VIRGINIA  
DANVILLE DIVISION

EAST TENNESSEE NATURAL GAS CO., )	)	
	)	
Plaintiff, )	)	Case No. 4:02-cv-00142
	)	
v. )	)	
	)	<b><u>ORDER</u></b>
.37 ACRES IN PATRICK COUNTY, )	)	By: Jackson L. Kiser
VIRGINIA, ET. AL., )	)	United States District Court
	)	
Defendants. )	)	

Before me is *Plaintiff's Motion to Alter or Amend Judgment*. Federal Rule of Civil Procedure 54(d) gives me the authority to grant costs, other than attorneys' fees, to the prevailing party in a case unless federal law expressly states otherwise. In this case, the Defendants are not the prevailing parties because this is a condemnation case. Furthermore, Federal Rule of Civil Procedure 71A(l) states that costs in a condemnation case are not subject to Federal Rule of Civil Procedure 54(d).

For these reasons, I hereby **Grant** the *Plaintiff's Motion to Alter or Amend Judgment*. The *Judgment* dated September 22, 2005 will be so amended.

The Clerk is directed to send certified copies of this *Order* and the attached *Amended Judgment* to all counsel of record.

Entered this 13<sup>th</sup> day of October, 2005.

s/Jackson L. Kiser  
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Senior United States District Judge